

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Dig Safe Notice No. 735

In Re: All Earth Renewables Inc., Alleged Violation of    )  
June 30, 2010, as reported by Waitsfield-Fayston        )  
Telephone Company, Inc., d/b/a Champlain Valley         )  
Telecom    )

Order entered: 4/8/2011

**ORDER RE: NOTICE OF PROBABLE VIOLATION**

**Background**

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to All Earth Renewables Inc. ("Respondent").
2. Incident Date: June 30, 2010
3. Incident Location: 1710 Greenbush Road, Ferrisburg, VT
4. Name and Address of Company that Reported the Incident to the Department:  
Waitsfield-Fayston Telephone Company, Inc., d/b/a Champlain Valley Telecom, P.O.  
Box 9, Waitsfield, VT 05673-0009
5. Date Incident Reported to Effected Utility: June 30, 2010
6. Date NOPV issued by Department: March 28, 2011 (#1865)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. On 6/18/10, All Earth Renewables made a notice of excavation activities for a solar tracker to Dig Safe System, Inc. Waitsfield Champlain Valley Telecom accurately located and marked its underground facilities in the area of the proposed excavation. The paint marks were not clearly visible at the time of excavation. The marks were lost prior to the excavation work due to traffic at the site and the contractor failed to call for a re-mark of the area. All Earth Renewables used a trenching machine striking and damaging a WCVT service line. This damage resulted in the WCVT wire being cut and a subsequent loss of service to one customer for 3 hours. All Earth Renewables notified WCVT of the damaged facility. The Department of Public Service issued 0 Notices of Probable

Violation (NOPV's) to All Earth Renewables Inc. during the 12 months preceding this incident."

8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7006a
9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Three Hundred Dollars (\$300.00).
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.<sup>1</sup>

### **Conclusion and Order**

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.<sup>2</sup>

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

(1) Within thirty days of the date of this Order, All Earth Renewables Inc. shall pay a civil penalty in the amount of Three Hundred Dollars (\$300.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701; and

(2) All Earth Renewables Inc. shall attend an Underground Damage Prevention Seminar at such time and place as determined by the Vermont Department of Public Service.

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1. See, Respondent's filing of 3/31/11.

2. See, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 8<sup>th</sup> day of April, 2011.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: April 8, 2011

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*